



## Community Development Department

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### NOTICE OF DISPOSITION

THIS IS THE COMMUNITY DEVELOPMENT DEPARTMENT  
DIRECTOR'S DECISION REGARDING A LEGISLATIVE INTERPRETATION.  
THIS DECISION IS ADMINISTRATIVE.

CASE:	DDI15-00005	ORDER NO. 2015-051
REQUEST:	<p>There is a need for the Community Development Director to interpret Land Development Code (LDC) Section 2.1.30.02, regarding the frequency of Planning Commission reviews of Comprehensive Plan Amendments.</p> <p>More specifically, clarification is sought regarding whether Planning Commission public hearings for privately-initiated Comprehensive Plan Amendment applications can occur in months other than the code stipulated reviews in March and September of each year.</p> <p>If Planning Commission public hearings for privately-initiated Comprehensive Plan Amendment applications can occur in other months, additional clarification is also necessary to provide guidance on what degree of Planning Commission review is necessary at the time of the March and September review.</p>	
INITIATED BY:	Corvallis Community Development Department	
LOCATION:	This is a legislative decision and the interpretation applies to code language that could be applied to all properties within the Corvallis Urban Growth Boundary.	
SUMMARY OF DECISION:	<p>Planning Commission review of Comprehensive Plan Amendment applications will occur in March and September each year, consistent with LDC Section 2.1.30.02, and the review will include all active Comprehensive Plan Amendment applications. Applications that have been deemed complete prior to the public notice deadlines specified in LDC Chapter 2.0 will have a public hearing scheduled as part of the March or September Planning Commission review. For applications that have not been deemed complete prior to the deadlines in LDC Chapter 2.0, Planning Commission review in March and September will not involve a public hearing, but rather a staff update on the scope and progress of the application, with a public hearing date to be determined once staff have deemed the application complete.</p>	

## **FINDINGS**

### **Background**

As stated in LDC Section 2.1.20, the purposes of a Comprehensive Plan Amendment are as follows:

- a. Respond to changing conditions and community attitudes;**
- b. Ensure flexibility while maintaining the integrity of the Comprehensive Plan; and**
- c. Establish procedures by which the Plan text and map may be amended.**

Consistent with LDC Section 2.1.20.c, Chapter 2.1 of the Land Development Code includes application requirements, procedures, and review criteria for consideration of amendments to the city's Comprehensive Plan. Amendments to the Comprehensive Plan map and text may be initiated by property owners or the City. Per LDC Section 2.1.30.08, applications for Comprehensive Plan Amendments are first reviewed by the Planning Commission at a public hearing, and the Planning Commission is directed to then provide a recommendation to City Council concerning the proposed Comprehensive Plan Amendment. Final action to approve or deny a Comprehensive Plan Amendment application is then taken by City Council, per LDC Section 2.1.30.09.

### **Request for Interpretation**

LDC Section 2.1.30.02, entitled "Frequency of Plan Amendments", outlines specific timing requirements for Planning Commission and City Council review of Comprehensive Plan Amendment applications. This section stipulates that Comprehensive Plan Amendment applications *"initiated by property owners shall be reviewed semi-annually in March and September by the Planning Commission."*

Per LDC Section 2.1.30.04, the Director is required to schedule a Planning Commission public hearing for the Comprehensive Plan Amendment, once the application has been deemed complete. Additionally, per LDC Chapter 2.0, scheduling of a public hearing requires that public notice be published 20 days prior to the hearing date for a quasi-judicial Comprehensive Plan Amendment, and that a public notice be published in a local newspaper at least 10 days prior to a public hearing for a legislative Comprehensive Plan Amendment. Therefore, if the Planning Commission is scheduled to review applications for a Comprehensive Plan Amendment semi-annually in either March or September, consistent with LDC Section 2.1.30.02, the application must be deemed complete prior to the public notice deadline specified in Chapter 2.0.

This interpretation is intended to clarify the process by which the Planning Commission is to review active Comprehensive Plan Amendment applications in March or September, when the application has not been deemed complete by the public notice deadline specified in LDC Chapter 2.0.

### **Discussion**

As noted in the purposes section of LDC Chapter 2.1, the Comprehensive Plan text and map may be amended to *"respond to changing conditions and community attitudes"*, while *"maintaining the integrity of the Comprehensive Plan"*. Presumably, the provisions of LDC

Section 2.1.30.02 are intended to address situations where multiple Comprehensive Plan Amendment applications have been received, so that the Planning Commission can consider individual applications within the context of the broader community-wide impact that multiple applications may have on the integrity of the Comprehensive Plan. Setting aside Planning Commission meetings in March and September of each year, to contemplate multiple amendments to the city's Comprehensive Plan, provides a single, focused public meeting, while also having the benefit of being able to evaluate and provide comment on the broader impacts associated with the collection of Comprehensive Plan Amendment applications. What LDC Section 2.1.30.02 does not make clear is if the Planning Commission review, specified for March and September, is to also include the required public hearing for each application, or if the public hearing can occur at a later date.

A critical step in scheduling the Planning Commission public hearing for review of a Comprehensive Plan Amendment application is determining application completeness. A complete application is necessary, as stipulated in LDC Sections 2.1.30.03 and 2.1.30.04, so that staff and decision makers have all of the materials necessary to determine whether or not the applicable review criteria have been satisfied. Additionally, public hearing notices cannot be mailed or advertised until the application has been deemed complete. The Planning Division has established an application deadline in December to facilitate scheduling of the March Planning Commission reviews, and an application deadline in June to facilitate scheduling of the September reviews. Despite these processing deadlines, Comprehensive Plan Amendment applications are frequently incomplete at the time that a public notice is required to be published for the hearing.

Therefore, if a Comprehensive Plan Amendment application is not complete by the time a public notice is required to be mailed or advertised, the public hearing on the matter cannot occur. Furthermore, applicants, the public at-large, and the Planning Commission would be disadvantaged during a public hearing, if likely incomplete Comprehensive Plan Amendment applications were decided upon, because there would not be sufficient information on which to make positive findings, meaning all such applications would likely be denied. Such denials would be based in part on a lack of sufficient information rather than the full merits of a complete application.

Another consideration is that if public hearings on all privately-initiated Comprehensive Plan Amendments were held only in March or September, the Planning Commission's schedule could become quite full, due to the need to meet the 120-day deadline on other, related land use applications. This could necessitate additional Planning Commission meetings in March and September, very lengthy meetings in those months, or a need to reschedule previously noticed hearings.

#### Decision

The Community Development Director finds the following:

- LDC Section 2.1.30.02 stipulates that Planning Commission review of Comprehensive Plan Amendment applications shall occur in March and September

of each year, but does not specify whether that review is to include the public hearing and Planning Commission recommendation specified in Section 2.1.30.08.

- Before the Planning Commission can make an approval or denial recommendation to City Council concerning the proposed Comprehensive Plan Amendment, they must be presented with a complete application in order to apply the review criteria in Sections 2.1.30.06 and 2.1.30.07. Comprehensive Plan Amendment applications that have been deemed complete prior to the deadline associated with the public notice requirements of LDC Chapter 2.0 shall have the required public hearing scheduled as part of the March or September Planning Commission review.
- An application for a Comprehensive Plan Amendment that has been received prior to the March or September Planning Commission review, but that has not been deemed complete by the public notice deadline, may still provide enough information for the Planning Commission to understand the scope of all applications received to date, and to get a sense of how those applications relate to changing community attitudes and the integrity of the Comprehensive Plan. Consequently, incomplete applications shall be presented to the Planning Commission in March and September, as part of a general staff presentation on all Comprehensive Plan Amendment applications received, with a public hearing date to be established once the application has been deemed complete.



Kent G. Weiss, Interim Community Development Director

November 21, 2015

Date Signed

## **APPEALS**

This is a legislative interpretation. If you wish to appeal this decision, the appeal must be filed within 12 calendar days from the date the decision was published. When the final day of the appeal period falls on a weekend or holiday, the appeal period shall be extended to 5:00 p.m. on the subsequent working day. All appeals must be submitted in writing to the City Recorder, and they must explain the specific grounds for appeal. If you have any questions about the appeal process, contact this office at (541)766-6908.

## **DDI15-00005**

Notice of Disposition Published: November 21, 2015  
Appeal Deadline: December 3, 2015